IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 689 OF 2007
IN
CRIMINAL APPEAL NO. 6 OF 2007

Suresh Shamrao Rathod ... Applicant
Vs.
The State of Maharashtra .. Respondent

Mr. Ujwal R.Agandsurve, Advocate for the applicant.
Mr. Y.S.Shinde, APP, for the State.

CORAM: J.H.BHATIA,J.
DATE : 21st June, 2007

P.C.

1. Heard Mr. Agandsurve, learned Counsel for the applicant,who is original accused No.5 and Mr. Shinde, learned APP.

2. The applicant seeks to be released on bail pending his appeal against the convictioon under Section 395 of I.P.C. He was sentenced to undergo R.I. for five years and to pay fine of Rs.500/- for the said offence.

3. At the outset, it may be stated that Appeal No.6 of 2007 along with the bail application No.61 of 2007 came up before this Court on 31.1.2007. Appeal was admitted. However, the bail application came to be withdrawn by the Counsel. That order does not show that application was withdrawn with liberty to file fresh application. However, Mr. Agandsurve points out that at that time, R & P was not available nor the papers and evidence were placed before the Court.The R &P was directed to be called on 31.1.2007 and it has been received in April, 2007.

4. Five persons were handled by two motor-cycles at about 3.30 a.m. during the night of 24th and 25th November, 2004. The motor-cycles stopped at a petrol pump. Initially, petrol of Rs.20/- was taken in one motor-cycle and some amount was given to the vendor. After the vendor came out from the cabin with a change, he was asked to supply petrol of Rs.20/- and 50 ml. oil for another motor-cycle which he did. After that, there was some quarrel about the payment of price. Accused No.4 was armed with a pistol and he threatend to fire with the same. Accused No. 1 also assaulted and tried to take out amount from the cash box. The watchman of the petrol pump actually fired from the revolver and injured accused No.4 and after that all the 5 persons ran away on the motor-cycles. It was revealed that the amount of Rs.600/- was received from the cash box. That amount was taken away by accusded No.1. As per the evidence, out of five persons, three including the present applicant, were simply present, while active participation was of accused Nos.1 and 4 only. The Forensic report reveals that the revolver, which was in possession of accused No.4, was a toy revolver. The

applicant was on bail during the trial and there is nothing to show that he had misused the same.

5. Taking into consideration the circumstances, I find that it is a fit case to grant bail to the applicant.

6. The applicant be released on bail on the same terms and conditions as before the trial Court subject to his furnishing fresh bail bonds and depositing the fine amount.

Application stands dispsed of.